HIGH COURT OF UTTARANCHAL AT NAINTIAL

(Court's order whether the case is or not approved for reporting.)

(Chapter VIII Rule 32(2)(b)

Description of the case.

W.P. No. 534 of 2004 (S/S)
Smt. Devki Devi

Vs.

1. State of U.P.
2. D.G.P. PAC, Lucknow
3. Commandent, 8th Btn. PAC
   Bareilly

Approved for reporting

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~~Not approved for reporting~~

Date of decision 12.5.2005

Initial of Judge

HIGH COURT OF UTTARANCHAL AT NANINTAL

Writ Petition No. 534 of 2004 (SS)

Smt. Devki Devi ..... Petitioner

Versus

1. State of U.P.
2. D.G.P. PAC, Lucknow
3. Commandent, 8th Btn. PAC
   Bareilly ..... Respondents.

Sri Amish Tiwari & Sri Yogesh Pandey, Advocate for the petitioner.
Ms. Beena Pandey, Sanding Counsel for the respondents.

Dated: 12.05.2005

Hon'ble Rajesh Tandon, J.

Heard the learned counsel for the parties at length.

By the present writ petition the petitioner has prayed for the issue of a writ, order or direction in the nature of mandamus commanding the respondents to release family pension in favour of the petitioner.

Briefly stated the facts giving rise to the present writ petition are that the husband of the petitioner late Sri Chandra Ballahab Joshi was posted as Head Constable in P.A.C. who retired after superannuating in the year 1969. Her husband was

getting pension during his life time. One 9.3.1979 the husband of the petitioner received a letter from Commandant, 8th Btn. P.A.C. Bareilly that in case of the death of husband, wife will be entitled for family pension. The husband of the petitioner died on 22.6.2000. The petitioner has stated that after the death of her husband she moved a representation on 29.12.2001 for granting her family pension. She also wrote an application on 18.5.2002 to the Accountant General U.P. Again she gave a reporesentation on 8.7.2003 to the commandant 8th Btn. Bareilly but she has not been granted family pension as yet.

The respondents have filed a counter affidavit and admitted that the husband of the petitioner was a pensioner and after his death the petitioner is entitled to get family pension. It has been stated that steps are being taken by the department for sanctioning family pension to the petitioner.

It has been held in State of Kerala and others Vs. M. Padmanabhan Nair, 1985 (1) S.C.C. 429, by the Hon'ble Supreme Court that pension is a valuable right.and property and the petitioner has a right to claim by virtue of the continuous services rendered by him. The observations of the Apex Court are quoted below:-

"Pension and gratuity are no longer any bounty to be distributed by the Government to its employees on their

retirement but have become, under the decisions of this Court, valuable rights and property in their hands and any culpable delay in settlement and disbursement thereof must be visited with the penalty of payment of interest at the current market rate till actual payment."

The aforesaid judgment of the Apex Court has also been followed in Dr. Uma Agarwal Vs. State of U.P. & another JT 1999 (2) SC 359 and it has been held as under:-

"Now-a-days, several writ petitions are being filed in this court and various High Courts seeking relief for disbursement, of retrial benefits, because of inordinate delays in payment of these benefits. As Krishna Iyer J. stated in State of Mysore Vs. C.R. Sheshadri & others (1974(4) S.C.C. 308), a retired government official is sensitive to delay in drawing monetary benefits. And to avoid posthumous satisfaction of the pecuniary expectation of the superannuated public servant-not unusual in government, it is becoming necessary to issue directions, in several cases, for early payment of these dues. In yet another case in State of Kerala and others Vs. M. Padmanabhan Nair (1985 (1) SCC 429 this court had occasion to point out that usually 'the delay occurs by reason of non-production of the L.P.C. (Usually the delay occurs by reason of non-production of the L.P.C.(last pay certificate) and the N.L.C. (no liability certificate) from the concerned Departments but both these documents pertain to matters, records whereof would be with the concerned Government Departments. Since the date of retirement of every

Government servant is very much known in advance we fail to appreciate why the process of collecting the requisite information and issuance of these two documents should not be completed at least a week before the date of retirement so that the payment of gratuity amount could be made to the Government servant on the date he retires or on the following day and pension at the expiry of the following month. The necessity for prompt payment of the retirement dues to a Government servant immediately after his retirement cannot be over-emphasised and it would not be unreasonable to direct that the liability to pay penal interest on these dues at the current market rate should commence at the expiry of two months from the date of retirement."

In the instant case the husband of the petitioner died on 22.6.2000, she has stated that since then she has been continuously knocking the doors of various authorities to grant her family pension despite of assurance from the side of respondent nothing is being paid to her towards family pension.

The rules governing the family pension are for the benefit of the employees and their dependants. They are piece of beneficial legislation and they intend to promote social justice. The widow of a retired Government servant has right to get family pension after the death of her husband.

In view of the observations made above, the writ petition is allowed. The respondents are directed to pay family pension to the petitioner with its entire arrears alongwith an interst @

9% per annum, within one more form the date of the receipt of the certified copy of this order.

No order as to costs.

(Rajesh Tandon, J.)

12.5.2005
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